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#### REMARKS

The present Amendment is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application is respectfully requested.

Applicants assert that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

#### Status of Claims

Claims 4, 7, 10-21, 23-25, 27-31 and 33-51 are pending in the application. Claims 1-3, 5, 6, 8, 9, 22 and 32 are canceled. Claims 4, 7, 17, 21, 23 and 42 have been amended.

Applicants respectfully assert that the amendments to the claims add no new matter.

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### **Inventorship**

The Office Action pointed out that this application currently named joint inventors. Applicants asserted that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made.

### **Allowable Subject Matter**

In the Office Action, the Examiner stated that claims 33, 35, 36, 38, 45 and 48 which were objected to, would be allowable if amended to incorporate all the limitations of the respective base claims and any intervening claims. Applicants thank the Examiner for this indication of allowability; however, Applicants maintained the dependencies in claims 33, 35, 36, 38, 45 and 48 in view of Applicants' assertion that the independent claims of this application are patentable, as discussed below.

### **Amendment and Cancellation of Claims**

Claims 4, 7, 17, 21, 23 and 42 have been amended to more clearly define what Applicants regard as the invention. It is respectfully asserted that all the pending claims are new and non-obvious in view of the cited prior art references.

Claim 6 has been canceled without prejudice or disclaimer. Applicants reserve the right to resubmit this canceled claim in continuation or divisional applications.

It is noted that amended claims 17 and 21 are now dependent from amended independent claim 4.

### **Claim Rejections**

#### **35 U.S.C. § 102 Rejections**

The Office Action rejected claims 4, 6, 7, 10-16, 21, 23-25 and 27 under 35 U.S.C. § 102(e), as being anticipated by Banister et al. (US Patent 6,567,390).

As is well established, in order to successfully assert a prima facie case of anticipation, the Office Action must provide a single prior art document that includes every element and limitation of the claim or claims being rejected.

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Independent claim 4, as amended, recites "...decoding the error corrected message to provide a decoded error corrected message...". Similarly, independent claim 23 recites "...correcting errors of the determined number of received symbols based on information received from an error detection bit ...".

Applicants respectfully assert that Banister does not teach, suggest, or even imply correcting errors in a decoded message and/or re-decoding an error corrected message as recited in amended claims 4 and 23.

For all the above reasons, it is respectfully asserted that the Banister reference does not anticipate amended claims 4 and 23. Accordingly, Applicants respectfully request that the rejection of these claims under 35 U.S.C. § 102(e) be withdrawn.

Furthermore, Applicants respectfully assert that amended independent claims 4 and 23 are patentable over Banister, inter alia, because the distinguishing features of the invention over Banister, as discussed above, would not have been obvious to a person of ordinary skill in the art at the time the invention was made in view of the state of the art at such time. Therefore, it is respectfully asserted that claims 4 and 23 are now in condition for allowance.

Each of claims 7, 10-16, 21, 22-25 and 27 depends, directly or indirectly, from either of claims 4 and 23, and therefore includes all the limitations of either of those claims as well as additional distinguishing features. Therefore, Applicants respectfully assert that dependent claims 7, 10-16, 21, 22-25 and 27 are likewise allowable.

Claim 6 has been canceled without prejudice. Therefore, the rejection of this claim under 35 U.S.C. § 102(e) is now moot.

### **35 U.S.C. § 103 Rejections**

The Office Action rejected claims 17-20 under 35 U.S.C. § 103(a), as being unpatentable over Banister in view of Lundby.

In view of the above amendments and following remarks, Applicants submit that the rejections of claims 17-20 under 35 U.S.C. 103(a) should be withdrawn.

As is well established, an obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (MPEP 2142). Without conceding the appropriateness of the combination, applicants respectfully submit that the combination of

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Banister and Lundby does not meet the requirements of an obviousness rejection in that neither reference teaches or suggests, at least, "...correcting error in the decoded message to provide an error corrected message; and decoding the error corrected message to provide a decoded error corrected message..."; as recited in amended claim 4. Therefore, applicants respectfully assert that Banister and Lundby, alone or in combination, do not teach or suggest all the limitations of claim 4. Since claims 17-20 are dependent from claim 4, Applicants respectfully submit that the rejection of these should be withdrawn for at least the same reasons.

The Office Action rejected claims 28 and 29 under 35 U.S.C. § 103(a) as being unpatentable over Banister. Applicants respectfully traverse this rejection in view of the remarks that follow.

As is well established, an obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (MPEP 2142). Applicants respectfully submit that there is no suggestion by Banister to determine a numbers of symbols based on a quality indicator, nor does Banister suggest a demodulator to provide a quality indicator, as required by claims 28. Since claim 29 is dependent from claim 28, Applicants respectfully submit that the rejections of claim 29 should be withdrawn at least for the same reasons.

The Office Action rejected claims 30, 31, 34, 37, 39, 40-44, 46 and 49-50 under 35 U.S.C. § 103(a), as being unpatentable over Banister in view of Watanabe. Applicants respectfully traverse this rejection in view of the remarks that follow.

As is well established, a prima facie showing of Obviousness may only be established if there is a clear suggestion from or in the prior art to make the modifications proposed by the Examiner. *See Gillette Co. v. S.C. Johnson & Son, Inc.* 919 F. 2d 720 (Fed Cir. 1990).

In addition, Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is a teaching, suggestion, or motivation to do so found either in the references themselves, or in the knowledge generally available to one of ordinary skill in the art. *In re Fine*, 837 F.2d 347, 21 USPQ2d 1941 (Fed Cir. 1992). The Office Action does not indicate a basis for motivation by a person skilled in the art at the time the invention to combine Banister and Watanabe. Applicants respectfully assert that there is no basis or motivation to combine Banister and

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Watanabe, inter alia, because the methods described by those two references are unrelated in both purpose and functionality. Banister describes a method of saving current in a receiver by decoding a message with less symbols than the symbol of the receiving frame (e.g. unreliable information) in order to put to sleep the receiver. In contrast, Watanabe describes decoding a speech signal using a Viterbi algorithm and performing error correction for all the symbols in a frame in order to receive a reliable speech signal. Applicants also assert that each of the Banister and Watanabe references provides different solutions and addresses different problems that are unrelated to the problems or solutions addressed by the other reference. Therefore, the teachings of each of Banister and Watanabe offer no benefit to the structures of the other. To the extent that synergistic benefits exist in the non-obvious combination of Banister and Watanabe, such benefits are only made possible by the present invention and, thus, further strengthen Applicants' assertion that the claimed invention is patentable over the cited references. Accordingly, Applicants respectfully submit that one skilled in the art would not have been motivated by the cited references themselves to make the combination suggested in the Office Action.

In view of the above, Applicants respectfully submit that the rejections of claims 30, 31, 34, 37, 39, 40-44, 46 and 49-50 should be withdrawn.

Furthermore, with regard to independent claim 42 and the claims dependent therefrom, as is well established, an obviousness rejection requires a teaching or a suggestion by the relied upon prior art of all the elements of a claim (MPEP 2142). Without conceding the appropriateness of the combination, applicants respectfully submit that the combination of Banister and Watanabe does not meet the requirements for a Prima Facie case of obviousness in that neither of these two references teaches or suggests, at least, "...altering the values of at least one of the decoded bits of the frame based on an error detection bit...", as recited in amended claim 42. Applicants respectfully speculate that the Office Action may have misinterpreted the error correction described in Watanabe as "altering the values of at least one of the received symbols", as required by amended claim 42. Applicants assert that Watanabe does not teach or suggest such correction; at most, Watanabe describes frame decoding wherein the operation of decoding includes error correction based on error detection information obtained from all the symbols in the frame (e.g. by Viterbi decoder).

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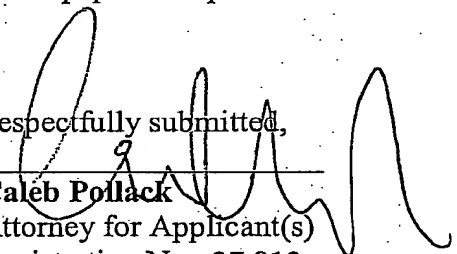
Therefore, the rejection of independent claim 42 should be withdrawn. Claims 43,44, 46 and 49-50 are dependent from claim 42; therefore, Applicants respectfully submit that the rejection of these claims should be withdrawn for at least the same reasons.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 05-0649.

Respectfully submitted,

  
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